

OVERVIEW OF INTELLECTUAL PROPERTY

	Trademark	Copyright	Trade Secret
What is Protected	Identification symbols and features; distinctive words and designs	Expressions fixed in tangible media; not spoken word	Confidential or proprietary business or financial information that provides a competitive advantage
Subject Matter	Words, names, symbols, devices, logos, colors, smells, sounds	Authored works, writings, music, photos, paintings, literature, video games, software, sculptures, sound recordings	Formulae, data, compilations, devices, programs, processes, customer lists
Standards for Protection	Distinctive; use in commerce	Original, not functional	Secret; subject to reasonable security measures
What it Protects Against	Similar use causing "likelihood of confusion;" dilution for famous marks	Copying, display, distribution, performance, transmission	Misappropriation or improper taking under the circumstances
Independent Development	Prohibited	Not prohibited	Not prohibited
Reverse Engineering	N/A	N/A	Not prohibited (can be prohibited by contract; e.g., NDA)
Damages for Infringement	Compensatory and treble damages; attorney fees; seizure of counterfeits, injunctions	Compensatory damages; statutory damages and attorney fees (if registered), injunctions	Compensatory and treble damages; punitive damages, attorney fees, injunctions
Protection Begins	First use in commerce, filing of an intent-to-use application	When created (fixed in tangible medium)	First use
Length of Protection	10 years, but unlimited opportunity to renew every 10 years so long as still in use	Life of author PLUS 70 years; (in certain contexts can extend to 95 to 120 years)	Potentially unlimited
Registration Required?	No, but recommended	No, but recommended (registration required to sue for infringement)	No
Approx. Cost	\$275 filing fee (does not incl. atty fees)	\$35 filing fee (does not incl. atty fees)	None

	Utility Patent	Design Patent	Other
What is Protected	Functional inventions	Ornamental designs; not functional aspects (popular after Apple beat Samsung on its rounded edge design)	
Subject Matter	Process, machine, manufacture, composition of matter (the way an article is used or works, or both)	Configuration or shape of an article, the surface ornamentation applied to an article, or to the combination of configuration and surface ornamentation (the way an article looks) (example: the shape of your computer mouse)	<p>Plant patents http://www.uspto.gov/web/offices/pac/plant/</p> <p>Mask Works (protection of semiconductor chip designs) http://www.copyright.gov/circs/circ100.pdf</p>
Standards for Protection	Useful, novel, not obvious; proper subject matter	Ornamental, novel, not obvious	
What it Protects Against	Independent creation, making, using, selling, or importing claimed invention	Independent creation, copying, use, sale, importation (do the designs look alike to the observer)	<p>Vessel Hull Designs (note possible overlap with design patents) http://www.copyright.gov/vessels/</p>
Independent Development	Prohibited	Prohibited	
Reverse Engineering	Prohibited	Prohibited	
Damages for Infringement	Compensatory and treble damages, attorney fees	Compensatory and treble damages; attorney fees	
Protection Begins	When patent issues, usually 2-5 years after filing; damages accrue from the date of publication	When patent issues, usually 2-5 years after filing; damages accrue from the date of publication	
Length of Protection	20 years from date of filing non-provisional application	14 years from date patent issues	
Registration Required?	Yes	Yes	
Approx. Cost	\$10,000 - \$15,000 (and up)	\$3,000 - \$5,000	

NOTE: This chart is not intended to cover all aspects of intellectual property law and is for informational/instructional purposes only. This chart compiles information for a number of different sources.